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2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA

4

5 STRIKE 3 HOLDINGS, LLC,  
6 Plaintiff,

7 v.

8 JOHN DOE SUBSCRIBER ASSIGNED IP  
ADDRESS 73.170.43.248,

9 Defendant.

10

Case No. 21-cv-04740-JCS

11

12 **ORDER GRANTING EX PARTE  
APPLICATION TO SERVE  
SUBPOENA**

13

Re: Dkt. No. 8

14

15 Plaintiff Strike 3 Holdings, LLC moves ex parte for leave to serve a third party subpoena  
16 prior to a Rule 26(f) conference. The Court being duly advised does hereby **FIND, ORDER  
17 AND ADJUDGE:**

18

19 1. Plaintiff has established that “good cause” exists for it to serve a third party  
20 subpoena on Comcast Cable (“Comcast”). *See UMG Recording, Inc. v. Doe*, No. C 08-1193 SBA,  
21 2008 WL 4104214, \*4 (N.D. Cal. 2008); *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6–7  
22 (D.D.C. 2008).

23

24 2. Plaintiff may serve Comcast with a Rule 45 subpoena commanding Comcast to  
25 provide Plaintiff with the true name and address of the Defendant to whom Comcast assigned the  
26 IP address 73.170.43.248. Plaintiff shall attach to any such subpoena a copy of this order.

27

28 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any  
service provider that is identified in response to a subpoena as a provider of Internet services to  
Defendant (together with Comcast, the “ISPs”).

29

30 4. **IT IS FURTHER ORDERED** that subpoenas authorized by this order and issued  
31 pursuant thereto shall be deemed appropriate court orders under 47 U.S.C. § 551. In particular, 47  
32 U.S.C. § 551(c)(2)(B) provides as follows:

33

34 (c) Disclosure of personally identifiable information

35

36 [. . .]

1 (2) A cable operator may disclose such information if the disclosure is—  
2  
3 [ . . . ]  
4

5 (B) subject to subsection (h) [relating to disclosures to governmental  
6 agencies] made pursuant to a court order authorizing such disclosure, if the  
7 subscriber is notified of such order by the person to whom the order is  
8 directed . . . .  
9

10 This order is an order authorizing such disclosure.  
11

12 5. **IT IS FURTHER ORDERED** that each ISP will have 30 days from the date of  
13 service upon it to serve each of its subscriber(s) whose identity information is sought with a copy  
14 of the subpoena and a copy of this order. The ISPs may serve the subscribers using any  
15 reasonable means, including written notice sent to the subscriber's last known address, transmitted  
16 either by first-class mail or via overnight service.  
17

18 6. **IT IS FURTHER ORDERED** that each subscriber and each ISP shall have 30  
19 days from the date of service upon him, her or it to file any motions in this court contesting the  
20 subpoena (including a motion to quash or modify the subpoena). If the 30-day period after service  
21 on the subscriber lapses without the subscriber or the ISP contesting the subpoena, the ISP shall  
22 have 10 days to produce to Plaintiff the information responsive to the subpoena with respect to  
23 that subscriber.  
24

25 7. **IT IS FURTHER ORDERED** that any ISP that receives a subpoena shall preserve  
26 all subpoenaed information pending the ISP's delivering such information to Plaintiff or the final  
27 resolution of a timely filed motion to quash the subpoena with respect to such information.  
28

8. **IT IS FURTHER ORDERED** that any information disclosed to Plaintiff in  
response to a subpoena may be used by Plaintiff solely for the purpose of protecting its rights  
under the Copyright Act, 17 U.S.C. § 101 et seq.  
29

30 **IT IS FURTHER ORDERED** that any name or other personal identifying information of  
any current or proposed defendant, or any other subscriber identified in response to a subpoena,  
31 shall be filed UNDER SEAL in all filings and not otherwise disclosed.  
32

33 **IT IS SO ORDERED.**  
34

35 Dated: July 9, 2021  
36

  
37 JOSEPH C. SPERO  
38 Chief Magistrate Judge  
39